

TOWN OF WEBSTER, NEW HAMPSHIRE
Zoning Board of Adjustment
945 Battle Street/Rte. 127
Webster, NH 03303
Tel. (603) 648-2272

Zoning Board of Adjustment Minutes March 18, 2014

REHEARING

Case No. 14-01 Commercial Exception to Article V Section 1.
Of the *Zoning Ordinance* from COPART of CT., Inc.
in order to comply with current zoning regulations for junk yard
licensing. Property is located at 111 Deer Meadow Road
Tax Map 9 Lot 18-2 in the Residential/Agricultural Zone

Present: Chairman Martin Bender, Members - Robert Drown, Jr., David Barnes and Barbara Corliss; Alternates – Secretary, Jaye Terrazzano-Bowe and Dee Blake. Barbara Corliss recused herself. Hence Jaye Terrazzano-Bowe and Dee Blake were appointed as acting voting members. Mr. John Kostro and Ms. Lisa Doherty represented the applicant, COPART of CT, Inc.

7:03 PM: Chairman Bender opened the rehearing. Secretary Terrazzano-Bowe took attendance and read the application. Chairman Bender explained the public hearing procedure. Ms. Lisa Doherty, COPART Regional Manager, stated that COPART would like to extend their hours from 8:00 am – 5:00 pm to 7:00 am – 7:00 pm because of weather situations, plowing or if the haulers become stuck in traffic, they may be late getting to the yard. Member Drown asked if there were employees on site after 5:00 pm. Ms. Doherty stated COPART stops loading cars to go out at 4:45 pm every day and generally there are no employees on site after 5:00 pm. Ms. Doherty added employees may plow parking lot prior to 8:00 am. Chairman Bender asked if there was anything going on after 5:00 pm. Ms. Doherty stated ‘now, no’. She stated if they were to get really busy, they might need a loader operator to stay to put cars away, which she stated did not happen frequently. Chairman Bender stated that was operating after 5:00 pm. A brief discussion followed about the loudness of the frontend loader. Ms. Doherty stated the loader may run a half hour beyond closing. She stated the extension of hours would be more for haulers dropping cars off if they cannot make it by 5:00 pm. Member Barnes queried that most of the time the extra hours would be for internal site business. Ms. Doherty answered in the affirmative. She stated the extension of hours would be more for haulers who would already be in transit and COPART does not send out haulers for pick-ups after 5:00 pm. Member Drown inquired about the Knox-Box (Fire Department access to the site when closed.) Ms. Doherty stated they had been in contact with the

Deputy Fire Chief and it was on order. Acting Member Terrazzano-Bowe asked about cars being picked up and dropped off between 5:00 pm and 7:00 pm. Ms. Doherty stated the gate is locked at 5:00 pm. Chairman Bender stated then it would be only the loaders that would be working after 5:00 pm. Ms. Doherty stated there aren't any haulers scheduled to come or go after 5:00 pm; the only haulers would be COPART's 2-car carriers or substitutes that may be late getting back to the yard to drop off cars.

At this time there were no more questions from the Board.

Chairman Bender asked if anyone wished to speak in favor of the application. No one spoke in favor.

Chairman Bender asked if anyone wished to speak in opposition. Mr. Harold Janeway, Tyler Road, stated the increase in hours would be by one third (9 hours to 12 hours). He stated that even though the applicant has stated they won't be hauling up until 7:00 pm, they would have the right to which would mean three more hours of traffic which would be significant increase and a serious problem for the town.

Ms. Barbara Corliss, Deer Meadow Road, stated she preferred hours of operation to be 7:00 pm to 7:00 am because of the impact of traffic with the school buses in the morning and the morning commuters.

Ms. Heide Shurtleff, Deer Meadow Road, stated she sees trucks before eight o'clock in the morning going very fast past her house and she has also seen trucks lined up waiting to get in on many occasions. Ms. Doherty stated those were people who don't work for COPART.

Mr. Kern Jackson, Deer Meadow Road, needed clarification that if COPART extended their hours would they be receiving trucks at seven in the morning and seven at night or would they only be extending their internal hours. Mr. Jackson stated if they were only extending their internal hours and the gates remained closed, he would have less of a problem with the extended hours.

Ms. Nancy Ceriello, Deer Meadow Road, was concerned with the noise. She stated she has seen trucks at six o'clock in the morning waiting to get in. She was concerned that if the hours were extended, business would be going on before and after those times. She is also concerned about her safety when she walks down the road.

Ms. Dianne Klabecek, Deer Meadow Road, stated it was not safe for children or even adults to be walking on the road anymore.

Ms. Betsy Janeway, Tyler Road, totally agreed and stated she would also include Tyler Road, Gerrish Road and Bashan Hollow Road. She stated she would not dare ride a bicycle on any of those roads.

Ms. Barbara Brown, Deer Meadow Road, she agreed with everything that had been said. She then presented a list of her neighbors who were against the extended hours. Chairman Bender stated the Board would put it into evidence. (Ms. Brown left before submitting the list. Mrs. Larson left a message for her to bring it to Town Hall.)

Ms. Kathy Abrams, Deer Meadow Road, stated if the trucks are rushing to get in on time, what's to stop them from rushing to get in during the extended hours. Her other concerns were with pollution and noise.

Ms. Leslie Williams, Frost Lane, asked if a traffic analysis was ever done as required in the Zoning Ordinance for Commercial Exceptions. Chairman Bender stated the Commercial Exception application was submitted because it was a requirement for COPART to have in order to be granted a Junk Yard License from the Select Board under the provisions of RSA 236:114. He stated the traffic analysis was not asked to be done because the property was a junk yard before the Town had zoning. Ms. Williams stated she supported the nighttime hours. She felt it would be less intrusive to citizens who live and commute in Webster. Ms. Williams stated she felt there would be less damage to the roads in the summer when the asphalt would be heated. In addition she informed the Board that Clothespin Bridge had three potholes, two with exposed rebar. After a brief discussion, she suggested the Planning Board do an assessment or find someone to look at an overall impact analysis so the Town would have information to make informative decisions.

Ms. Susan Rauth, Bashan Hollow Road, asked if the Junk Yard License had been issued. Mr. Bruce Johnson, member of the public and a Select Board member, stated the license had been issued with one of the conditions being pending ZBA appeals or restrictions. Ms. Rauth then asked the Board if they followed up on questions at the previous hearing regarding groundwater testing. Chairman Bender stated he did not remember. Ms. Rauth stated she agreed with Ms. Williams that it would have been good to follow the procedures of the commercial exception and do more analysis. She stated her biggest concern is safety. She fears something bad will happen.

Ms. Shurtleff also voiced her concerns regarding the dust and emissions from the tires, brakes and asphalt. A brief discussion followed regarding the long term effects of such pollution.

Mr. Janeway stated that Webster was the wrong town for this type of operation. He added that he recollected there were three reasons in the zoning regulations the ZBA

could use to turn down an application and one of those was the impact of traffic in the area. Ms. Williams then discussed the listing of requirements for a plan before a commercial exception is granted. She stated it was never too late to go back and do an impact analysis.

A discussion followed regarding weight limits. Chairman Bender stated that is not under the jurisdiction of the ZBA; it is up to the Selectmen.

This was the conclusion of all public testimony.

7:43 pm: Chairman Bender then opened the discussion for rebuttal from the applicant. Ms. Doherty stated she understood everyone's concerns. She stated that all of the big trucks that haul 8 cars, 10 cars etc. do not work for COPART; they work for COPART's customers; the trucks that sub-haul for COPART carry four cars maximum. Ms. Doherty stated it would be extremely difficult to control the size of the trucks. In addition, Ms. Doherty stated she did not know how COPART could control trucks waiting outside the gate, no matter what time they opened. Chairman Bender then asked Ms. Doherty, if employees don't start until 8:00 am why would they need to be open at 7:00 am? She stated to plow. Chairman Bender also asked about cars being dropped off between 5:00 pm and 7:00 pm. Ms. Doherty stated they would only open the gate for COPART's drivers because they might be late trying to get in by 5:00 pm. Acting Member Blake asked about the number of drivers that work for COPART. Mr. Kostro stated they have 11 sub-haulers. Chairman Bender asked Ms. Doherty why they would need two hours more. Ms. Doherty stated they do not necessarily need it; it would be more a less a buffer. She added that shutting everything down right at five o'clock puts a little bit of pressure on them to make sure everything is in by that time.

7:45 pm: Chairman Bender then opened the discussion for rebuttal from the public.

Mr. Janeway stated he felt the Chairman's questions seemed to be encouraging the applicant – trying to find a way to say 'yes' when the public in attendance have made it clear they are in opposition. He added he did not think Chairman Bender was being fair. Chairman Bender stated the purpose of the hearing was not to find out what the people in Town want. Chairman Bender stated the ZBA's job was to enforce the Zoning Ordinance. He stated they were not there to take a vote; the ZBA was trying to make a reasonable decision after hearing both sides.

Ms. Corliss asked about the percentage of COPART haulers compared to total number of haulers. Ms. Doherty stated she could not answer that. She did not know the number of COPART's customers who hire independent haulers. She stated COPART can control their own sub-haulers but not truckers who do not work for them.

A discussion ensued regarding how the trucks are causing road damage, noise, pollution and traffic.

Chairman Bender stated the junkyard was 'grandfathered' because it was a junk yard before zoning. He added that the problem with this is not really a junk yard; it is something in-between that is not defined in the statute. Ms. Williams stated she felt that would be all the more reason to have an independent assessment. Ms. Shurtleff added that the role of the junk yard had totally changed since the time it had been owned by John Little.

Member Drown stated that COPART's customers should be notifying their haulers that COPART is only open from 8:00 am to 5:00 pm.

A brief discussion ensued.

7:59 pm: Chairman Bender closed the public testimony and Board discussion began. Member Barnes asked how long COPART had been in Webster – response from Ms. Doherty was about a year and a half. Acting Member Blake was concerned about the 7:00 am time frame because of the school buses and commuters on the roads at that time. She preferred the opening time of 8:00 am. Member Drown stated he was leaning towards the 8:00 am to 5:00 pm timeframe too, because that was what COPART asked for at the hearing for their Commercial Exception on January 14, 2014 which had been approved by the ZBA. He was concerned that if the ZBA gave them more time, it would stretch into 14 hours per day. Member Drown stated the ZBA usually sets hours of operation for commercial exceptions as 8:00 am to 5:00 pm. At the ZBA hearing on January 14, 2014, at Member Drown's suggestion, the ZBA also allowed hours of operation on Saturdays from 8:00 am to Noon, because Member Drown stated that might help in extending the traffic over more days. At this time, however, COPART declined to be open on Saturdays. Acting Member Blake stated she did not feel that plowing was doing business so there would be no need to change the hours. Acting Member Terrazzano-Bowe stated after listening to both sides she understands that some truckers will do what they want to do and she understands the residents' concerns, too. She stated she thought the Board should leave the hours at 8:00 am to 5:00 pm. A discussion ensued regarding trucks idling their engines waiting to get in when they arrive before 8:00 am.

Following the Board discussion, Member Barnes made a motion to restrict COPART's hours of operation to 8:00 am to 5:00 pm; seconded by Acting Member Jaye Terrazzano-Bowe.

The Vote: Chairman Bender – in favor; Member Drown – in favor; Member Barnes – in favor; Acting Member Terrazzano-Bowe – in favor; Acting Member Blake – in favor;

approved unanimously that COPART's hours of operation shall remain the same, 8:00 am to 5:00 pm.

Member Drown added a second restriction: COPART must have a Knox-Box installed within 30 days from the date of this hearing. Member Drown wanted to add, 'No idling of trucks by the roadside or in the parking lot.' Chairman Bender stated that would be way beyond the authority of the ZBA; that is under the authorities of the Select Board and the Police Department. Member Drown disagreed. At this time Chairman Bender recognized Mr. Bruce Johnson, member of the public and also a Selectman. He informed the Board that police officers have told truckers to turn off their engines. Mr. Johnson added that the police officers do not allow the truckers to park on the side of the road. Chairman Bender reiterated these situations fall under the authority of the Selectmen and Police, not the ZBA.

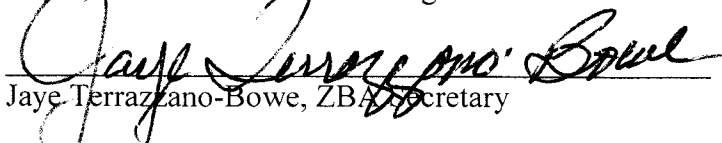
8:15 pm: Public hearing was adjourned.

At this time the ZBA held the election of officers for 2014. Member Barnes nominated Marty Bender for Chairman; seconded by Acting Member Terrazzano-Bowe and unanimously approved. Member Drown nominated Acting Member Terrazzano-Bowe for Secretary; seconded by Member Barnes and unanimously approved.

The next order of business was the Chairman's recommendations to the Select Board of re-appointments and appointments of ZBA members. Chairman Bender informed the Board that Member Don Koberski had informed him he did not want to be re-appointed. Chairman Bender stated he would recommend Alternate Terrazzano-Bowe to be the fifth regular voting member on the Board and to re-appoint Barbara Corliss to her member position and Dee Blake to be Alternate no. 2 with Guy LaRoche moving into Alternate no. 1 position, which leaves three alternate positions vacant. Mr. Bruce Johnson asked if the Board had any names they could recommend. Member Drown recommended Jeff Evans of Battle Street. After a brief discussion, a couple of Board members mentioned Ms. Leslie Williams of Frost Lane might be a good candidate to approach because earlier during the public hearing she stated she used to be in the Planning profession.

Member Drown made a motion to approve the ZBA minutes from February 19, 2014 as written; seconded by Chairman Bender and approved unanimously. After a brief discussion, Chairman Bender asked if Mrs. Larson would contact Alternate LaValley to see if she wants to be re-appointed for the next three years.

The meeting adjourned at 8:30 pm. These minutes were "Approved as Written" at the July 7, 2014 ZBA Public Hearing.


Jaye Terrazzano-Bowe, ZBA Secretary

Posted July 8, 2014